

(a) The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .11B of this chapter.

(b) The notice to the client shall state the decision and the basis for it, cite the regulation supporting it, and explain the applicant's right to and the method to request a fair hearing.

E. Terminations.

(1) The local department shall terminate services under any of the following circumstances:

(a) Objectives of service have been reached;

(b) The client, client's family, or case manager is able to secure equivalent services from an alternative source or other community-based services;

(c) The client is no longer in need of IHAS;

(d) The client is deceased;

(e) The client moves outside of the local jurisdiction;

(f) The client is hospitalized longer than 4 weeks, placed in a long-term care facility for services other than short-term rehabilitation or is receiving community-based Medicaid Waiver program services;

(g) The client is no longer eligible;

(h) The limit on the number of service hours in Regulation .08 of this chapter has been reached;

(i) The service has not been effective in achieving the specific changes in the client's condition or family's situation, which were expected to result from providing services;

(j) The service is suspended up to 4 weeks;

(k) The client requests termination;

(l) The client declines to receive ongoing IHAS services;

(m) The behavior of the client or other household members has prevented the aide from performing tasks identified in the IHAS personal care plan or places the aide at risk of harm;

(n) The unresolved environmental issues pose an immediate threat to the health and safety of a care provider or case manager;

(o) There is insufficient staff or funds to serve the current number of clients;

(p) The client does not comply with the specific provisions of the IHAS personal care plan and/or the recommendations of the supervising nurse;

(q) The client demonstrates a pattern of unavailability during scheduled service time;

(r) The client or the client's representative does not actively participate in goal setting/achievement or

(s) The client's needs exceed the scope of the program.

(2) Termination under Regulation .13E(1)(o) of this chapter shall be in order of lowest priority to highest priority based on ranking as described in regulation Regulation.05A(2) of this chapter.

(3) The local department shall send notice to the client at least 15 calendar days before taking action which will deny, reduce, suspend, or terminate services except when services are suspended on an emergency basis as set forth in Regulation .12A of this chapter.

(4) The notice to the client shall state the decision and the basis for it, and cite the regulations supporting it.

.14 Appeal Rights and Nondiscrimination.

A. General Appeals. The local department shall give written notification of the right to appeal a decision, and the procedures for requesting and obtaining a fair hearing, to each applicant or client of IHAS. The procedures are set forth in COMAR 07.01.04.

B. Emergency Action Hearing Requests. The client has the right to request an emergency hearing which is an expedited hearing of the appeal case.

(1) Emergency action hearing requests shall:

(a) Be filed with the local department within 10 days of the certified mailing of the notice of the local department's action; and

(b) State the name and address of the client, and the effective date of the action being appealed.

(2) The local department shall notify the Office of Administrative Hearings immediately upon receipt of an emergency action hearing request.

(3) Oral notification shall be followed by written notification within 24 hours.

(4) A hearing shall be conducted within 7 days of the filing date of the hearing request.

(5) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

C. Discrimination. The local department may not discriminate in the delivery of service, as required by the nondiscrimination procedures as set forth in COMAR .07.01.03.04A.

SAM MALHOTRA

Secretary of Human Resources

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.03 Crabs

Authority: Natural Resources Article, §§4-215 and 4-803, Annotated Code of Maryland

Notice of Proposed Action

[16-032-P]

The Secretary of Natural Resources proposes to amend Regulations .07, .12, .14, and .15 under COMAR 08.02.03 Crabs.

Statement of Purpose

The purpose of this action is to update crabbing regulations. The proposed action removes the requirement to contain a live male crab used for peeler bait to the upper chamber of the crab pot. This requirement substantially reduces the mortality of the bait crabs compared to them being placed in the bait box (the chamber in the crab pot that holds the bait); however, male crabs are able to move to the lower chamber even though they are placed in the upper chamber. Therefore, a harvester could receive a citation for something they have no control over. The proposed action prohibits the use of crabs in the bait box. The Department was made aware that the industry has begun using female peelers as bait for male hard crabs by placing the female peelers in the bait box. Adopting this change will protect all crabs used for bait, whether male or female and in both the hard and peeler crab fishery. This requirement is more enforceable than the requirement to contain crabs being used as bait to a certain chamber of the crab pot. Male or female crabs may not be placed in the bait box of a crab pot.

The proposed action removes the cull ring closure for crab pots in Worcester County. Cull rings in crab pots used in the coastal bays are required to be closed from April 23 through May 31. The closure requirement is inconsistent with crab management and should be removed.

The proposed action creates a minimum size for a float. The current regulation allows a licensee to have 20 undersized peeler crabs per float, but does not describe what a float looks like. Harvesters may therefore call any container a float, which creates problems for both the resource and enforcement. The Natural Resources Police (NRP) brought to Fisheries Service staff attention

the difficulty they are having with enforcement of the tolerance limit on undersized peelers due to the fact there is no legal description for a float. This has resulted in small containers, some with a base as small as one square foot, being called a float. Based on feedback from the industry and NRP, it was determined that the typical float used to shed peelers that will be sold as soft crabs is built with a 4ft x 4ft or 4ft x 8ft sheet of plywood as the base. Recognizing that there could be reasons for a peeler float to have different dimensions, but aiming to maintain equity in the fishery, the proposed action requires a float used for holding or shedding peelers to have a base that has an area that is a minimum of 16 square feet.

The proposed action corrects the crab catch limits for crabbing charters. Catch limits for blue crabs are different for the Chesapeake Bay and its tidal tributaries and for the Atlantic Ocean and its coastal bays. The proposed action details the differences.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Blue Crab Regulations, Regulatory Staff, Department of Natural Resources Fisheries Service, B-2, 580 Taylor Avenue, Annapolis, MD 21401, or call 410-260-8300, or email to fisheriespubliccomment.dnr@maryland.gov, or fax to 410-260-8310. Comments will be accepted through February 22, 2016.

.07 Crab Pots.

A. (text unchanged)

B. A crab pot shall meet the following structural requirements:

(1)—(3) (text unchanged)

(4) Except for a crab pot constructed with unstretched mesh measuring less than 1-1/2 inches or at least 2 inches on each side, a crab pot set in the Chesapeake Bay or its tidal tributaries shall have two cull rings, one of at least 2-3/16 inches and one of at least 2-5/16 inches inside diameter located in exterior side panels or the top panel of the crab pot; and

[(5) A live male blue crab used for bait, in a crab pot used for catching peeler crabs, shall be contained only in the upper chamber of the crab pot and may not be less than the minimum size; and]

[(6)] (5) (text unchanged)

C. (text unchanged)

D. General Requirements.

(1)—(8) (text unchanged)

(9) *Crabs may not be in the bait box of the crab pot.*

E.—H. (text unchanged)

.12 Special Regulations for Crabbing in Worcester County.

A. Structural Requirements of Crab Pots. Notwithstanding Regulation .07A and B of this chapter, a crab pot set in the coastal bays of the Atlantic Ocean and their tidal tributaries shall have one unobstructed 2-5/16 inch cull ring on a side panel of the upper compartment and one 2-5/16 inch cull ring on a panel at the lower compartment of the crab pot. The cull ring is not required in a crab pot constructed with unstretched mesh measuring less than 1-1/2 inches or at least 2 inches on each side. [The cull ring shall be closed from April 23 through May 31.]

B.—F. (text unchanged)

.14 General Prohibitions.

A. (text unchanged)

B. Commercial — General.

(1)—(11) (text unchanged)

(12) *A float used for holding or shedding peelers shall have a base that is a minimum of 16 square feet.*

C.—G. (text unchanged)

.15 Crabbing Charters.

A.—C. (text unchanged)

D. Crabbing Charters.

(1)—(2) (text unchanged)

(3) A crabbing charter:

(a)—(b) (text unchanged)

(c) May not harvest female hard crabs or female peelers from the Chesapeake Bay and its tidal tributaries; and

(d) (text unchanged)

(4) (text unchanged)

(5) Catch Limit. A crabbing charter with one or more customers on board may not catch more than two bushels of [male]:

(a) *Male hard crabs and two dozen soft crabs or male peeler crabs from the Chesapeake Bay and its tidal tributaries; or*

(b) *Crabs from the Atlantic Ocean and its coastal bays.*

(6)—(7) (text unchanged)

MARK J. BELTON

Secretary of Natural Resources

Subtitle 02 FISHERIES SERVICE

08.02.04 Oysters

Authority: Natural Resources Article, §4-215, Annotated Code of Maryland

Notice of Proposed Action

[16-030-P]

The Secretary of Natural Resources proposes to amend Regulation .11 under **COMAR 08.02.04 Oysters.**

Statement of Purpose

The purpose of this action is to create a process to open and close portions of Public Shellfish Fishery Areas. Counties would like the opportunity to work with the Department to manage populations of oysters on selected areas of Public Shellfish Fishery Areas. The county committee may want an area closed because they seeded the area or because the area received a good spat set and they want to wait to put any pressure on the bar until after most of the oysters are market size. The proposed action removes outdated language that refers to making changes to the regulation and replaces it with a process that is consistent with statute and the Oyster Management Plan.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action may have a positive impact for commercial oyster harvesters.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	